Senate Commerce, Labor & Agriculture Committee Amendment No. 1, as amended

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Amendment No. 1 to SB2300

Cooper
Signature of Sponsor

AMEND Senate Bill No. 2300 House Bill No. 2321*

by deleting all sections of the printed bill after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as a new section:

Section ____. (a) To the extent that funds are specifically appropriated by the General Appropriations Act including, but not limited to, any such funds that may be available from the bureau of TennCare's reserve funds, the department of finance and administration, in coordination with the department of health and the department of mental health and developmental disabilities, is authorized to facilitate the expansion and augmentation of a health care safety net in the state of Tennessee. The health care safety net provides medical assistance to individuals in need of medical care who are uninsured and who lack financial resources to secure medical care. It is the legislative intent that priority should be given to efforts pursuant to this section that benefit the greatest number of such individuals. Such efforts may include, but not be limited to:

(1) Improvement and expansion of the provision of medical assistance, both medical services and pharmacy, in the county health departments, with specific emphasis placed in providing assistance in those counties with the largest number of uninsured individuals; such support could include funding for additional staffing needs and facility expansion.

(2) Support for community-based health care facilities and practices, including not-for-profit clinics, faith-based facilities, community mental health centers, and federally qualified health centers, for the provision of health care services to the uninsured;

(3) Incentive-based measures to encourage and promote physician involvement and treatment of the uninsured population, including specific steps taken to assist in providing for continuity of care, including specialty care, for such individuals as well as targeted efforts at comprehensive disease management;

(4) Creation and implementation of a twenty-four (24) hour, seven (7) day a week health care safety net hotline designed to assist and direct individuals in need of medical care and services to available resources in their areas;

(5) Creation of a donated care referral system that can be easily accessed by individuals in need of medical care; and

(6) Collaborative work with agencies and entities across the state to encourage citizens to volunteer their time, effort, and resources in creative efforts to assist in the overall care and well-being of uninsured individuals in this state.

(b) Nothing established or supported pursuant to the provisions of this section shall in any way be construed or determined to be an entitlement by any individual or entity to any medical assistance, medical services, or any pharmacy services or, if such assistance or services are provided, to any continuing assistance or services by the State or by any other entity or person.

SECTION 2. Tennessee Code Annotated, Title 56, is amended by adding the following as a new designated chapter:

56-__-_____.

(1) “Commissioner” means the commissioner of the department of commerce and insurance;

(2) “Department” means the department of commerce and insurance;

(3) “Member” means any person who pays fees, dues, charges or other consideration for the right to receive the purported benefits of a prescription drug discount plan;

(4) “Operator” means any person that engages as principle in the business of offering, selling, marketing, advertising or otherwise distributing a prescription drug discount plan within the state;

(5) “Person” means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, limited liability company, any similar entity or any combination of the foregoing;

(6) “Prescription drug” has the same meaning as such term is defined in Tennessee Code Annotated, Section 63-10-204; and

(7) “Prescription drug discount plan” means any card or other purchasing mechanism or device, which is not insurance, that purports to offer discounts or access to discounts to any person for the retail purchase of prescription drugs from licensed pharmacies.

56__-_____.

(a) The department of health is hereby authorized to develop and implement a prescription drug discount plan to be known as “Volunteer Rx.” The purpose of “Volunteer Rx” is to assist in providing, when possible, cost savings on medications for uninsured Tennesseans or for insured Tennesseans whose insurance does not provide for drug prescription coverage on or after January 1, 2005.

(b) Notwithstanding the above subsection, the department of health can, if funding is made available through the General Appropriations Act, provide benefits through the prescription drug discount plan. Such benefits would be limited by the funds specifically appropriated for that purpose. The department shall also have the authority to develop and implement prescription drug discount plans targeted for specific defined populations; such plans may also incorporate benefits provided that funds are specifically allocated for such benefits in the General Appropriations Act.

(c) In developing the plans authorized by this section, the department can consider the use of different means to lower the overall cost to participants, including,

but not limited to, the payment or waiver of any membership fees as well as the use of cost-sharing arrangements and deductibles.

(d) Nothing in the creation of such a drug-discount program pursuant to this section shall be construed as creating any entitlement by any individuals or entities to any services or medications.

56__-_____.

(a) An operator of a prescription drug discount plan must obtain a valid certificate of registration from the commissioner. Such certificate shall be valid for one year from the date of issuance. In order to receive a valid certificate of registration, the operator shall file an application on a form adopted by the commissioner, and provide or demonstrate to the commissioner each of the following:

(1) The name and principle place of business of the operator;

(2) A minimum net worth of one hundred fifty-thousand dollars or the posting of a bond in an amount deemed sufficient by the Commissioner;

(3) A list of drugs and drug classifications that make up the drug discount plan; and

(4) The name and address of the agent in this State for service of process.

(b) Notwithstanding any provision of law to the contrary, it shall be unlawful and a violation of this part for any person to sell, market, promote, advertise or otherwise distribute a prescription drug discount plan in Tennessee or to Tennessee residents without first complying with the provisions of this part.

56__-_____.

(a) Each prescription drug discount card or any materials distributed on behalf of any prescription drug discount plan covered under the provisions of this part shall expressly provide in bold and prominent type (in letters at least 18 point type print) that the card or plan does not constitute health insurance. The card or distributed materials

must also contain a toll-free telephone number for customer service, and provide the operator's corporate name and principle place of business.

(b) Prior to becoming a member, the operator must provide each prospective member with a complete description of any and all fees that a member of the plan could be assessed, including any up front fees or membership fees associated with the plan. The description of the fees must also include all potential costs of obtaining a prescription, including but not limited to any mailing costs associated with obtaining the prescription and other dispensing fees.

(c) An operator must provide each member with:

(1) A network directory of participating pharmacies , that shall be updated annually;

(2) A list of the prescription drugs covered by the card or plan, that shall be updated annually; and

(3) A toll-free phone number for customer service.

56__-_____.

(a) Each member shall have the right to cancel membership in a plan within thirty days of joining the plan and shall have the right to have any and all membership fees paid during that initial membership refunded.

(b) After the initial thirty day membership period, a member shall have the right to cancel membership in accordance with the policies established by the operator. Information concerning the cancellation policy of the operator must be provided to the member at the time of the initial membership and cannot be changed unless thirty-day written notice is provided to the member.

56-__-_____.

(a) For the limited purpose of determining compliance with this chapter, the commissioner may examine or investigate the business and affairs of any operator or any person affiliated with the operator. Pursuant to this chapter, the commissioner may:

(1) Order any operator to produce any records, books, files, advertising and solicitation materials or other information; and

(2) Take statements under oath.

(b) The operator that is the subject of the examination or investigation shall pay the expenses incurred in conducting the examination or investigation.

56-__-_____. All operators shall be subject to the proceedings authorized by Title 56, Chapter 9, and for such purposes shall be considered to be an "insurer" as defined in Tennessee Code Annotated, Section 56-9-103.

56-__-_____. Each operator shall file with the commissioner within three (3) months after the end of its fiscal year, an annual report. Such annual report shall include:

(1) Audited financial statements prepared in accordance with generally accepted accounting principles certified by an independent certified public accountant;

(2) A list of the names and addresses of all persons responsible for the conduct of the operator's affairs;

(3) The number of plan members; and

(4) Any other information relating to the performance of the operator that may be required by the commissioner.

56-__-_____.

(a) Any violation of the provisions of this part shall be construed to constitute an unfair or deceptive act or practice affecting the conduct of any trade or commerce and shall be subject to investigation, request for information, penalties, and remedies as provided by the Tennessee Consumer Protection Act, Title 47, Chapter 18.

(b) In addition to the provisions of subsection (a), after notice and hearing, the commissioner may suspend or revoke an operator's certificate of registration, and levy an administrative penalty in an amount not less than ten thousand dollars ($10,000) for each violation of any of the provisions of this chapter.

SECTION 3. Tennessee Code Annotated, Title 56, Chapter 7 is amended by adding the following designated new part:

56-7-_____

(a) It is the clear intent of the general assembly that the department of commerce and insurance develop a proposal to extend affordable health insurance plan benefits to the uninsured in this state, specifically including those individuals who are or may be disenrolled from TennCare. The department of commerce and insurance is to review different alternative plans as well as alternative funding sources and submit a written report back to the General Assembly no later than December 1, 2005. The department, in reviewing possible plans, shall work with health insurers, health maintenance organizations, hospital and medical services corporations, and other entities offering health benefits in this state, including those entities referred to in Tennessee Code Annotated, Section 56-2-121, for the purpose of determining both participation and the mechanics necessary to assist in lowering the cost to participate in the health insurance plan.

SECTION 4. Tennessee Code Annotated, Title 71, Chapter 2, is amended by adding as a new Part 5 the following language:

Section 71-2-501.

(a) It is the intent of the legislature that the State of Tennessee, through the bureau of TennCare, be designated as the authorized representative for elderly and disabled enrollees who are eligible Medicare beneficiaries but have lost or may lose eligibility for TennCare benefits due to changes in the TennCare program, for the purpose of facilitating and effectuating enrollment in a Medicare-approved Prescription Drug Discount Card program or programs and applying for Transitional Assistance Program Medicare drug benefits pursuant to 42 U.S.C. sections 1395 et seq. As the eligible enrollee's legally authorized representative for this purpose, TennCare may designate or select one or more programs as preferred plans for purposes of automatically enrolling said Medicare beneficiaries to expedite access to prescription drug discounts and secure related transitional assistance payments for those Medicare enrollees eligible for such assistance.

(b) To expedite and assure enrollment of individuals into a program, TennCare may enroll a Medicare-eligible beneficiary in a program or programs and apply for available transitional assistance on the enrollees behalf in the absence of any action or application of the individual beneficiary seeking such enrollment or assistance, provided that each individual so enrolled shall be informed of the following:

(1) In advance of enrollment in a program, the state's intent to enroll the individual in a program unless the individual informs TennCare within ten (10) day of receipt of such notice that the individual does not want to be so enrolled;

(2) The procedures by which the individual may disenroll from the preferred Sponsor's Program;

(3) The existence of alternative Medicare-approved Prescription Drug Discount Card Sponsors in the region in which the individual resides; and

(4) The means through which the individual may change his enrollment to an alternative Sponsor or may obtain assistance in doing so.

(c) TennCare shall determine the procedures for automatic enrollment in a preferred Sponsor's Program and application for transitional assistance, where applicable.

Section 71-2-502. In facilitating automatic enrollment, TennCare may do one or all of the following:

(1) Enter into a contract with one or more Program Sponsors to facilitate automatic enrollment.

(2) Identify those Medicare eligible enrollees that meet the federal income criteria for transitional assistance.

(3) Preliminarily enroll the beneficiary into a preferred Sponsor's Program.

(4) Apply for Medicare transitional assistance program benefits through the Medicare Transitional Assistance Program on behalf of an eligible enrollee.

(5) Preliminarily enroll beneficiaries into a preferred Program, with an opt-out provision for the individual.

Section 71-2-503. The program established in this part is not, nor does it in anyway create, an entitlement.

SECTION 5. Tennessee Code Annotated, Title 71, Chapter 5, is amended by inserting the following as a new, appropriately designated part thereto:

Section 71-5-__. As used in this part, unless the context otherwise requires:

(1) "Federal poverty guidelines" means the poverty guidelines as published in the federal register by the United States Department of Health and Human Services as they existed on January 1, 2005;

(2) "Manufacturer-sponsored prescription drug assistance program" means a program offered by a pharmaceutical manufacturer through which the manufacturer provides a drug or drugs to eligible persons at no charge or at a discounted cost.

Section 71-5-__.

(a) The Tennessee Pharmaceutical Connection Program is established to help the uninsured in accessing all manufacturer-sponsored prescription drug assistance programs and other programs for which they may qualify, including but not limited to Medicare Part D prescription drug coverage.

(b) The department of finance and administration shall administer the program and shall utilize a toll-free telephone number and website as the point of contact for those eligible to participate in the program.

(c) Eligibility shall be limited to residents of the state who:

(1) Have a gross income that does not exceed two hundred fifty percent (250%) of the federal poverty guidelines;

(2) Have no prescription drug coverage other than Medicare part D; and

(3) Have not voluntarily canceled a state or federal prescription drug program or a private prescription reimbursement plan within six (6) months prior to application to enroll in the program.

Section 71-5-__.

(a) The department of finance and administration shall provide assistance to persons determined to be eligible for services authorized by this act. The assistance provided shall include:

(1) Assisting persons in identifying and accessing manufacturer-sponsored prescription drug assistance programs for which they are or may be eligible;

(2) Assisting persons in applying for manufacturer-sponsored prescription drug assistance programs for which they are or may be eligible:

(3) Disseminating information about and advertising available programs that can provide assistance with obtaining prescription drugs at a lower cost; and

(4) Assisting persons in comparing Medicare Part D drug plans and in applying for that plan best suited to their needs.

(b) (1) The department may seek and receive voluntary moneys, including grants and gifts, to assist with the implementation of the Tennessee Pharmaceutical Connection Program.

(2) The department shall include within the development of the program the assistance of foundations, independent and chain community pharmacists, volunteers, state agencies, community groups, area agencies on aging, corporations, hospitals, physicians, and any other entity that can further the intent of the program.

Section 71-5-__. The department shall notify pharmaceutical companies doing business in Tennessee of the Tennessee Pharmaceutical Connection Program, and shall offer pharmaceutical companies the opportunity to submit information to the department about any pharmaceutical assistance programs the offer, the drugs covered by such programs, and all information required for application to the programs.

Section 71-5-__. The department may implement additional strategies, subject to available resources, to improve access to prescription drugs for persons who have no or inadequate health insurance or other resources for the purchase of medically necessary prescription drugs.

Section 71-5-__. The department of finance and administration shall prepare and submit an annual report on the Tennessee Pharmaceutical Connection Program to the governor, the speaker of the senate and the speaker of the house of representatives. This report shall include the number of clients served, the number of prescriptions filled and refilled, and the value of the drugs and services provided.

Section 71-5-__. The program established in this part is not, nor does it anyway create, an entitlement.

SECTION 6 Tennessee Code Annotated, Title 10, Chapter 7, Part 5, is amended by deleting the words "Office of TennCare Inspector General" wherever they appear in the part and substituting instead the words "Office of Inspector General".

SECTION 7. Tennessee Code Annotated, Title 53, Chapter 10, Part 3, is amended by deleting the words "Office of TennCare Inspector General" wherever they appear in the part and substituting instead the words "Office of Inspector General".

SECTION 8. Tennessee Code Annotated, Title 71, Chapter 5, Part 25, is amended by deleting the words "Office of TennCare Inspector General" wherever they appear in the part and substituting instead the words "Office of Inspector General".

SECTION 9. Tennessee Code Annotated, Section 71-5-2502, is amended by inserting in the fourth sentence of that section, after the words "from the" and before the word "medicaid," the following words:

"TennCare bureau and the"

SECTION 10. Tennessee Code Annotated, Section 50-7-701(a)(1)(B), is amended by adding the following language as new appropriately numbered subdivisions:

(__) The Bureau of TennCare, the Office of Inspector General, and their duly authorized agents and contractors, for the sole purpose of investigating the eligibility of TennCare enrollees and applicants; provided, that the information disclosed to such agents shall only include TennCare enrollee and applicant information, and that such information shall be used only for the following purposes: verification of eligibility for TennCare, verification of TennCare enrollee access to health insurance other than

through TennCare, and determination of whether the enrollee is being charged and is paying correct TennCare premium amounts. It is further provided that before any such agent or contractor may have such access to such information, the agent or contractor shall execute an agreement with the Bureau of TennCare or the Office of Inspector General warranting that any information obtained as provided herein shall remain confidential, shall not be disclosed by said agent or contractor to third parties or subcontractors, and that said agent or contractor shall limit such use to the purposes set forth above in this section. Such agreement shall further require that the contractor or agent return or destroy all confidential information received during the course of the contract or agency and use appropriate safeguards to prevent use or disclosure other than as provided for by law and by the contract or agency agreement. Nothing in this subdivision shall be construed to prevent the Office of Inspector General from sharing such information with other public agencies, including law enforcement agencies, in the performance of the official duties of the Office of Inspector General and those agencies, as may be otherwise provided by law.

SECTION 11. Tennessee Code Annotated, Section 50-7-701(a)(1)(C), is amended by inserting between the word “agency” and the phrase “who has received” the following words and punctuation:

or employees of duly authorized agents of, or contractors with, the bureau of TennCare or the Office of Inspector General

SECTION 12. Tennessee Code Annotated, Section 63-2-101, is amended by adding a new appropriately designated subsection, as follows:

(__) Providers, as defined in Tennessee Code Annotated, Section 71-5-2503, shall make available for inspection and copying, to the Office of Inspector General and the Medicaid Fraud Control Unit, upon request no later than by the close of business on the next business day, a complete set of all medical records requested in connection with an investigation being pursued by the agency.

SECTION 13. Tennessee Code Annotated, Section 68-11-1503(a), is

amended by adding a new appropriately designated subdivision as follows:

(_) Any request by the Office of Inspector General or the Medicaid Fraud Control Unit with respect to an ongoing investigation. No person or entity shall be subject to any civil or criminal liability for releasing patient information in response to a request from the Office of Inspector General or the Medicaid Fraud Control Unit.

SECTION 14. Tennessee Code Annotated, Section 71-5-183, is amended by inserting a new subsection (a) as follows, and re-lettering the remaining subsections accordingly:

(a) If the attorney general and reporter finds that a person has violated or is violating section 71-5-182, the attorney general and reporter may bring a civil action under this section against the person.

SECTION 15. Tennessee Code Annotated, Section 71-5-2503, is amended by inserting in the first sentence thereof, after the word “part” and before the word “unless,” the following words and punctuation:

and part 26

SECTION 16. Tennessee Code Annotated, Section 71-5-2503, is further amended by deleting subdivisions (12), (14), and (15) in their entirety and substituting instead the following:

(12) "Provider" shall mean an institution, facility, agency, person, corporation, partnership, unincorporated organization, non-profit organization or any person or entity directly or indirectly providing benefits, goods or services to a TennCare enrollee. Provider shall also mean a provider’ s agent, contractor or subcontractor, such as a billing agent;

(14) “TennCare” means the program administered by the Single State agency as designated by the State and CMS pursuant to Title XIX of the Social Security Act and the Section 1115 Research and Demonstration waiver granted to the State of Tennessee and any successor programs;

(15) “Vendor” means any person, institution, agency, other entity or business concern providing services or goods authorized under title 71, chapter 5, part 1, and includes, but is not limited to, any health maintenance organization, managed care

organization, managed care contractor, administrative services organization, pharmacy benefit manager, prepaid limited health service organization, contractor or subcontractor.

SECTION 17. Tennessee Code Annotated, Section 71-5-2503, is further amended by adding the following as a new appropriately numbered subdivision and renumbering the remaining subdivisions accordingly:

(__) "Claim" includes any request or demand for money, property, or services made to any employee, officer, or agent of the state, or to any contractor, grantee, or other recipient of state funds, whether under contract or not, if any portion of the money, property, or services requested or demanded issued from, or was provided by, TennCare.

SECTION 18. Tennessee Code Annotated, Section 71-5-2508, is amended by inserting, in the second sentence, after the word "provider" and before the words "fraud and abuse" the following words:

or vendor

SECTION 19 . Tennessee Code Annotated, Section 71-5-2508, is further amended by deleting, in the second sentence, the words "medical assistance" wherever they occur, and by substituting instead the following words:

goods or services

SECTION 20. Tennessee Code Annotated, section 71-5-2602, is amended by deleting the first sentence of subsection (a) in its entirety and substituting instead the following:

Upon submitting a claim for or upon receiving payment for goods, services, items, facilities or accommodations under the TennCare program, a managed care organization, provider, vendor, subcontractor, or any other person or entity shall maintain adequate records for a minimum of five (5) years after the date on which payment was received, if payment was received, or for five (5) years after the date on which the claim was submitted, if the payment was not received.

SECTION 21. Tennessee Code Annotated, Section 71-5-2602, is further amended by deleting the first sentence of subsection (b) and substituting instead the following:

Failure to maintain adequate records is defined as negligently failing to maintain such records as are necessary to disclose fully the nature of the goods, services, items, facilities, or accommodations for which a claim was submitted or payment was received by the managed care organization, provider, vendor, subcontractor, or any other person or entity receiving funds originating from the TennCare program. Records include records kept in any form or fashion, including but not limited to, any and all medical records, documents, data, or items, electronic or non-electronic, related to the provision of and billing for services and goods.

SECTION 22. Tennessee Code Annotated, Section 39-11-713(b), is amended by inserting the following as a new appropriately numbered subsection:

(__) In any matter concerning or arising out of TennCare fraud or abuse which is or may be the subject of a proceeding pursuant to this chapter, the district attorney general may specially appoint the following persons to prepare, initiate, and conduct such proceedings as the district attorney general is authorized by law to conduct pursuant to this chapter:

(1) Upon consent of the commissioner of that department or his or her designee, a licensed attorney employed by the department of finance and administration;

(2) Upon consent of the director or his or her designee, a licensed attorney employed by the Tennessee Bureau of Investigation; or

(3) Upon the consent of the chief executive officer of any governmental agency, a licensed attorney employed by that agency.

The acts of an attorney acting for the district attorney general pursuant to this subsection shall be valid as if done by the district attorney general, and there shall be no requirement that the district attorney general be disqualified from acting or that there be a vacancy in the office. Nor shall the district attorney general or any of his or her

assistants be compelled to attend court proceedings in the matters in which an attorney is acting for the district attorney general pursuant to this subsection; provided, that the district attorney general or any of his or her assistants may be in attendance, and participate, if the district attorney general so desires. The authority to make such appointments extends to all proceedings brought under this chapter, whether civil or criminal.

SECTION 23. Tennessee Code Annotated, Section 39-11-713(b)(2), is amended by inserting after the word "investigation" and before the word "then" the following words and punctuation:

, or in the event that the Office of Inspector General participates in the investigation, seizure, or prosecution,

SECTION 24. Tennessee Code Annotated, Section 39-11-713(b)(2), is further amended by inserting after the word and punctuation "operations;" and before the word "or" the following words and punctuation:

provided, that if more than one state agency participated in the investigation or seizure as certified by the prosecuting attorney, then the court shall order a distribution according to the participation of each;

SECTION 25. Tennessee Code Annotated, Title 71, Chapter 5, Part 25, is amended by adding the following language as a new, appropriately designated section:

Section ___.

(a) The office of inspector general is directed to create an incentive program to provide a cash reward to citizens who notify the office of inspector general of criminal fraud and abuse of the TennCare program by a provider or recipient in the TennCare program. A cash reward shall be paid to the citizen who notified the office of inspector general of such fraud and abuse if the information provided results in savings to the state. The amount of the reward shall be equal to the estimated first month's savings to the TennCare program resulting from such report. In order to determine such savings, the commissioner of finance and administration shall certify the estimated first month's

savings as a result of such citizen's notification to the inspector general and the comptroller.

(b) The office of inspector general shall file an annual report of all such monies paid to citizens with the senate commerce, labor and agriculture committee and the house commerce committee by February 15.

SECTION 26. Tennessee Code Annotated, Title 68, Chapter 11, Part 2, is amended by adding the following as a new section:

Section 68-11-259.

(a) Each hospital licensed under this chapter shall develop two programs of payment allowances for qualified self-pay patients. Each program shall consist of one of the following:

(1) A program of payment allowances for qualified self-pay patients who are treated in the emergency room, admitted through the emergency room, or present for labor and delivery. All patients shall continue to be charged the same rate, but qualified self-pay patients shall be eligible for discounts based on family income. The discount shall be determined by each facility. The discount program shall not apply to patients who are eligible for, or enrolled in, private or public insurance plans providing hospital coverage, including indemnity plans, except high deductible plans.

(2) A program for payment allowances for patients with household incomes up to three hundred percent (300%) of the federal poverty guidelines, who are qualified self-pay patients who are treated in the emergency room, admitted through the emergency room, or present for labor and delivery. All patients shall continue to be charged the same rate, but qualified self-pay patients shall be eligible for discounts based on family income. The discount program shall not apply to patients who are eligible for or enrolled in private or public insurance plans providing hospital coverage, including indemnity plans. The policy must include a discount that restricts charges to no more than one

hundred twenty percent (120%) of the applicable Medicare rates and a description of the methodologies developed by the hospital for the following:

(A) Identifying patients who may be eligible for a payment allowance, notifying them of the availability of the program, and providing appropriate information, including application forms, for a payment allowance.

(B) Identifying public or private insurance or other payment mechanisms for which the patient might be eligible.

(C) Determining the payment allowance or credit.

(D) Notifying patients of their qualification either for a public source of payment or a discount pursuant to this program.

(E) Developing payment plans and procedures preceding assignment of a patient's account to a third party or reporting nonpayment to a patient's consumer credit agency. For purposes of this program, these patients are considered as qualified self-pay patients.

(b) The term "qualified self-pay patient" means any resident who has established a domicile in Tennessee, as evidenced by residing in a Tennessee county which he or she intends to maintain as his or her permanent home, with no public or private source of payment for medical services who would otherwise be expected to pay the hospital's billed charges. The term does not include:

(1) Patients presenting for services that are not covered by Medicare, Medicaid, or workers' compensation in this state or elective, nonmedically necessary services.

(2) Patients who fail to provide income and asset information to determine if the patient is eligible for public or private coverage or for a discount under this program.

(3) Patients with discretionary assets in excess of fifty percent (50%) of

the billed charges, with discretionary assets defined as the fair market value of personal savings, personal investments, and personal nonhomestead property. Discretionary assets shall not include personal automobiles or business assets.

(c) No hospital shall foreclose on homestead property to the extent such property is protected by Section 26-2-301 that is owned by a qualified self-pay patient. No hospital shall seek a court order to issue a writ of bodily attachment to enforce payment of hospital bills for medical services provided to qualified self-pay patients.

SECTION 27. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 28. This act shall take effect upon becoming a law, the public welfare requiring it.